

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KATHERINE MOUSSOURIS, HOLLY
PIERMARINI, and DANA PIERMARINI,
on behalf of themselves and a class of
those similarly situated,

Plaintiff,

v.

MICROSOFT CORPORATION,

Defendant.

Case No. 2:15-cv-01483-JLR

**PLAINTIFF DANA PIERMARINI
OBJECTIONS AND RESPONSES TO
DEFENDANT MICROSOFT
CORPORATION'S FIRST SET OF
INTERROGATORIES TO PLAINTIFF
DANA PIERMARINI**

PROPOUNDING PARTY: Defendant MICROSOFT CORPORATION

RESPONDING PARTY: Plaintiff DANA PIERMARINI

SET NUMBER: ONE (1)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff, by her attorneys, Lief Cabraser Heimann & Bernstein, LLP and Outten & Golden LLP, makes the following responses and objections to Defendant Microsoft Corporation's First Set of Interrogatories to Plaintiff Dana Piermarini (the "Document Requests"), dated May 3, 2016.

PRELIMINARY STATEMENT

Plaintiffs have not completed their investigation of the facts related to this case, have not

1 completed discovery in this action, and have not completed preparation for trial. Plaintiff
2 reserves her right to supplement these responses and objections at an appropriate time before
3 trial, as Plaintiff discovers additional facts relevant to her claims.

4 Plaintiff's responses or objections to any Interrogatory or part of an Interrogatory are not
5 an admission of any fact set forth or assumed by that Interrogatory. In addition, each of
6 Plaintiff's responses to an Interrogatory or part of an Interrogatory is not a waiver of part or all of
7 any objection she might make to that Interrogatory, or an admission that such answer or
8 objection constitutes admissible evidence.

9 This preliminary statement is incorporated into each response by this reference.

10 **GENERAL OBJECTIONS**

11 The following General Objections are applicable to and incorporated into each
12 interrogatory response:

13 1. Plaintiff objects to each Interrogatory to the extent that it is premature at
14 this early stage in discovery.

15 At this time, most material facts supporting Ms. Piermarini's contentions remain uniquely
16 in Defendant's custody and control. To date, Defendant has not produced a substantial quantity
17 of documents responsive to Plaintiffs' requests, few Rule 30(b)(6) depositions have taken place,
18 and Plaintiffs have not received class-wide data. Without class-wide data, the process of expert
19 statistical analysis cannot begin. Such statistical analysis will be an indispensable part of
20 Plaintiffs' factual record. In addition, the parties are still in the process of negotiating regarding
21 search-term based custodial discovery, and documents obtained via these searches will provide
22 substantial relevant information, as will 30(b)(6) witness depositions on the topics of
23 performance evaluations, compensation, promotions, and internal complaints and compliance.

24 Federal Rule of Civil Procedure 33(a)(2) authorizes courts to protect litigants from
25 abusive interrogatories, particularly those served before discovery is complete. Referencing an
26 interrogatory that "asks for an opinion or contention," the rule provides that "the court may order

1 that an interrogatory need not be answered until designed discovery is complete, or until a
2 pretrial conference or some other time.” Fed. R. Civ. Pr. 33(a)(2).

3 There is also overwhelming support for Plaintiffs’ position in the Ninth Circuit. For
4 example, courts have recognized that “[c]ontention interrogatories which ‘systematically track
5 all of the allegations in an opposing party’s pleading, and that ask for ‘each and every fact’ and
6 application of law to fact that support the party’s allegations are an abuse of the discovery
7 process because they are overly broad and unduly burdensome.’” *Miles v. Shanghai Zhenhua*
8 *Port Mach. Co.*, No. 08-5743, 2009 WL 3837523, at *1 (W.D. Wash. Nov. 17, 2009) (quoting
9 *Lucero v. Valdez*, 240 F.R.D. 591, 594 (D.N.M. 2007)) (allowing a plaintiff, eleven months into
10 discovery, to rest on the allegations in the complaint in response to a contention interrogatory).
11 Courts are particularly wary of defendants’ use of contention interrogatories as an attempt to
12 prematurely narrow a plaintiff’s case. For example, in *Advocare International, L.P. v.*
13 *Scheckenbach*, No. 08-85332, 2009 WL 3064867, at *1 (W.D. Wash. Sept. 24, 2009), the court
14 denied a motion to compel a response to an “overly broad” contention interrogatory as “an
15 attempt to prevent the plaintiff[] from using any evidence or argument, other than that already
16 provided.” The court denied that motion to compel fifteen months after the case had been filed
17 and with only two months left to complete discovery—*i.e.*, far later in the discovery process than
18 the parties find themselves now.

19 Courts have also recognized that it is inefficient and burdensome to require plaintiffs to
20 provide responses to contention interrogatories that would undoubtedly be incomplete given the
21 posture of the case, as would be true here. For example, in *In re eBay Seller Antitrust Litigation*,
22 No. 07-1882, 2008 WL 5212170, at *2 (N.D. Cal. Dec. 11, 2008), the court denied a motion to
23 compel responses to contention interrogatories early in discovery because the plaintiff’s answers
24 “likely would be materially incomplete,” and given “the tentative nature of any responses
25 generated at this stage,” they “would be of questionable value to the goal of efficiently advancing
26 the litigation.” Likewise, in *Campbell v. Facebook, Inc.*, No. 13-5996, 2015 WL 3533221 (N.D.

1 Cal. June 3, 2015), a court denied a motion to compel responses to contention interrogatories for
2 much the same reason. There, the interrogatories were served nine months before class
3 certification and summary judgment motion deadlines. The court noted that the defendant, like
4 Defendant, had “better access to the information” sought. *Id.* at *5. The court also rejected the
5 defendant’s argument that the court should compel the plaintiff to answer the interrogatories and
6 require the plaintiff to update answers as the factual record developed, stating, “It strikes the
7 Court as unnecessarily burdensome to constantly revise and update such responses.” *Id.* at *6.
8 Defendant’s contention interrogatories served on Plaintiff are inappropriate at this time for the
9 same reasons.¹ (Objection on the ground of “**Prematurity.**”)

10 2. Plaintiff objects to each Interrogatory to the extent that it calls for
11 information protected by the attorney-client privilege, the work product doctrine, or any other
12 constitutional, statutory, or common law privilege or protection, including Plaintiff’s privacy
13 rights, or the privacy rights of others, or any other lawfully recognized privilege or immunity
14 from disclosure that may attach to information requested by the interrogatory. (Objection on the
15 ground of “**Privilege**” or “**Privacy.**”)

16
17
18 ¹ Further, similar examples of courts in this circuit taking issue with early contention interrogatories are legion. *See,*
19 *e.g., Amgen, Inc. v. Sandoz, Inc.*, No. 17-4741, 2016 WL 1039029, at *4 (N.D. Cal. Mar. 15, 2016) (“[Defendant]
20 has not demonstrated that its interrogatory is appropriate at this stage as it has not shown how responding to its
21 interrogatories before substantial discovery has been conducted will contribute meaningfully to clarifying the issues
22 in the case or narrowing the scope of the dispute.”); *Cardoza v. Bloomin’ Brands, Inc.*, Case No. 2:13-cv-01820-
23 JAD-NJK, 2015 WL 3875916, at *1-2 (D. Nev. Jun. 22, 2015) (holding that contention interrogatories served
24 shortly after the opening of discovery and ten months before its close were premature); *Folz v. Union Pac. R.R. Co.*,
25 No. 13-579, 2014 WL 357929, at *2 (S.D. Cal. Jan. 31, 2014) (“[C]ourts are reluctant to allow contention
26 interrogatories, especially when the responding party has not yet obtained enough information through discovery to
respond.”); *S.E.C. v. Berry*, No. 07-4431, 2011 WL 2441706, at *4 (N.D. Cal. June 15, 2011) (“Contention
interrogatories asking for ‘each and every fact,’ or application of law to fact, that supports particular allegations in
an opposing pleading may be held overly broad and unduly burdensome.” (quoting Schwarzer et. al., Cal. Prac.
Guide: Fed. Civ. Pr. Before Trial § 11:1682 (The Rutter Group 2010))). Microsoft itself has objected to answering
premature contention interrogatories. *Microsoft Corp. v. Motorola, Inc.*, 10-1823 (W.D. Wash.), Roberts Decl.,
May 1, 2013, Ex. E, at 42, 52, Dkt. 683-1 (“Microsoft further objects that this is a premature contention
interrogatory. Microsoft is not obligated to respond to premature contention interrogatories until the parties have
substantially completed discovery.”) (emphasis added).

1 3. Plaintiff objects to each Interrogatory to the extent that it purports to
2 impose any duty upon Plaintiff that is inconsistent with, or beyond that required by, the rules of
3 this Court and the Federal Rules of Civil Procedure. (Objection on the ground of “**Scope.**”)

4 4. Plaintiff objects to each Interrogatory that seeks information that is
5 (a) neither relevant nor material to the subject matter of this action, nor reasonably calculated to
6 lead to the discovery of admissible evidence, or (b) which bears only such slight relevance to the
7 subject matter of this action that the expenditure of resources necessary to produce such
8 information would be grossly disproportionate to that relevance. Under such circumstances,
9 responding would be unduly burdensome and oppressive. (Objection on the ground of
10 “**Relevance.**”)

11 5. Plaintiff objects to each Interrogatory to the extent that it seeks
12 information for the illegitimate purposes of harassing, annoying, or embarrassing Plaintiff.
13 (Objection on the ground of “**Harassment.**”)

14 Plaintiff asserts these objections without waiving or intending to waive any objections as
15 to competency, relevancy, materiality, or privilege.

16 In addition to the General Objections set forth above, Plaintiff will also state specific
17 objections to Interrogatories where appropriate, including objections that are not generally
18 applicable to all of the Interrogatories. By setting forth such specific objections, Plaintiff does
19 not intend to limit or restrict the General Objections set forth above. To the extent that Plaintiff
20 responds to Interrogatories to which she objects, such objections are not waived.

21 **RESPONSES TO FIRST SET OF INTERROGATORIES**

22 **INTERROGATORY NO. 1:**

23 If YOU contend that Microsoft operated under a general policy of discrimination against
24 women in the purported class, state all material facts supporting that contention.

25 **RESPONSE TO INTERROGATORY NO. 1:**

26 Plaintiff incorporates the general objections stated above and reserves her right to

1 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
2 responds as follows:

3 Plaintiff incorporates her allegations in the Second Amended Complaint. Plaintiff also
4 incorporates her answers to all the Interrogatories herein.

5 As a Microsoft employee since 2006, Plaintiff has made many observations of gender
6 discrimination at Microsoft. These include the following:

7 Lack of Women in Solutions Specialist and Related Roles

8 For much of her career, Plaintiff has been the only woman on her Specialist Team Unit
9 focused on “Productivity” products in the Microsoft Federal division. In fact, Plaintiff can recall
10 having only three or four other women on her team during her entire ten years with the company.
11 During certain points in her career, Plaintiff was one of only two or three women on all of the
12 Specialist Team Units in her division, which consisted of approximately 60-75 people.

13 In approximately 2013, Plaintiff’s manager, David Walker, stated in a joking manner that
14 he was supposed to try to recruit diverse candidates for an open headcount, but that he knew the
15 candidate that he wanted to select and did not want to bother trying to recruit anyone who would
16 add diversity to the team.

17 Women Singled Out for Scrutiny Relating to Family Responsibilities

18 Plaintiff and other women are frequently singled out for scrutiny and criticism relating to
19 their family responsibilities in a way that their male counterparts are not. For example, in March
20 2015, Plaintiff’s manager, David Walker, admonished Plaintiff that she should not be “doing
21 child care” during work hours, referring to days during the previous winter when Plaintiff
22 worked from home due to her children’s illnesses and school closures, even though Plaintiff met
23 every deadline and attended all of the meeting she was scheduled to attend during this time.
24 Plaintiff is aware that several of her male counterparts also worked from home because of
25 children with illnesses and/or school/daycare closures during this period, but she is unaware of
26 Mr. Walker criticizing them for “doing child care” during work hours.

1 Plaintiff is aware of other women at Microsoft who have received undue scrutiny related
2 to family responsibilities. For example, in approximately [REDACTED], [REDACTED], another
3 female [REDACTED], was asked by a hiring manager during her job interview about her
4 children and questioned about whether she thought that she would have child care issues if hired.

5 Plaintiff is also aware that management employees at Microsoft have suggested to female
6 employees with children that they should get a nanny to help out in order to be more successful
7 in their jobs. For example, in approximately March 2015, Plaintiff's manager, David Walker,
8 suggested that she should get a nanny to assist with her child care obligations. During a separate
9 incident, [REDACTED] was also told that she should consider getting a nanny. Plaintiff has never
10 heard any managers suggest to male employees with children that they should get a nanny.

11 Plaintiff has observed that there is an assumption that women are less committed to their
12 careers if they have children, but men who have children are not subject to that same assumption.
13 Plaintiff believes that this widely held view has manifested itself in performance evaluations and
14 advancement opportunities for women.

15 Singled Out for Criticism

16 Plaintiff has also received unfair criticism about behavior for which her male colleagues
17 do not receive criticism. For example, in Plaintiff's March 2016 Connect, she was criticized by
18 Mr. Walker for involving an individual with particular technical expertise in the Navy Enterprise
19 Office 365 project that multiple members of the team, including Plaintiff, believed was critical to
20 the success of the opportunity. Mr. Walker indicated that the involvement of this additional
21 technical resource meant that Plaintiff had not sufficiently led the strategy of the project. To
22 Plaintiff's knowledge, however, male employees in Plaintiff's role, including [REDACTED],
23 have used the same resource to provide particular technical expertise for certain accounts. In
24 those cases, the involvement of the additional resource was not viewed as indicative of a lack of
25 leadership on the part of the male Solutions Specialist.

26 Sexual Harassment & Sexually Charged Work Environment

1 Plaintiff has observed and learned of incidents of sexual harassment and hostile work
2 environment at Microsoft.

3 For example, Plaintiff has heard from various sources that [REDACTED]
4 [REDACTED], made unwanted sexual
5 advances at and or/inappropriately sexual comments to several female employees, including
6 [REDACTED]. Plaintiff is not aware of [REDACTED] being
7 disciplined for his conduct.

8 Plaintiff has also heard that [REDACTED]
9 [REDACTED], also engaged in inappropriate conduct with respect to various female
10 employees, including [REDACTED].

11 For instance, Plaintiff understands that [REDACTED] made inappropriate comments to
12 [REDACTED] about her appearance and conduct before or after an event during [REDACTED].
13 Another Microsoft employee who observed the incident reported it. Subsequently, [REDACTED]
14 [REDACTED] discussed the
15 incident with [REDACTED]. Plaintiff has also heard that, before or after an event during [REDACTED]
16 [REDACTED] in approximately [REDACTED], [REDACTED] slipped his hotel room key into the back
17 pocket of one of the female employee's listed above, suggesting that she should follow him there
18 later in the evening if she was lonely. To Plaintiff's knowledge, [REDACTED] was not
19 disciplined for any of this conduct.

20 Plaintiff has also learned that [REDACTED] a former [REDACTED], made
21 inappropriate comments and unwanted advances at [REDACTED], a [REDACTED]
22 [REDACTED], in approximately [REDACTED]. Some of these inappropriate comments were made in front of
23 other Microsoft employees who reported the conduct to Human Resources. [REDACTED]
24 subsequently left the company.

25 Plaintiff has attended events at Microsoft ISU, including parties in 2007 and/or 2008,
26 where scantily-clad women were hired to dance and serve drinks. Microsoft continues to host

1 parties and other events at Microsoft ISU and MGX where excessive drinking takes places.
2 Multiple women have made allegations of sexual harassment about conduct that occurred during
3 or after these Microsoft ISU and MGX events, but to Plaintiff's knowledge, Microsoft has not
4 taken adequate steps to address the issue.

5 Plaintiff has also heard that several of the young women who have participated in the
6 Microsoft Academy for College Hires ("MACH") have experienced sexual harassment. Plaintiff
7 believes that MACH participants are particularly vulnerable to sexual harassment because they
8 do not yet have permanent positions and are encouraged to network with various company
9 leaders to find a long-term career path. Plaintiff has heard that a participant in the [REDACTED]
10 program, [REDACTED], recently felt pressured into having a sexual encounter with [REDACTED]
11 [REDACTED] business, after a recent [REDACTED]
12 event. Plaintiff has also heard that another female [REDACTED] participant, [REDACTED], has felt
13 uncomfortable because of unwanted attention from various men with whom she works on her
14 [REDACTED].

15 In approximately 2014, during a team meeting, one of the male attendees on Plaintiff's
16 team, David Ouart, opened his laptop and audible sounds of pornography began coming from the
17 computer. The sounds continued for several minutes while Mr. Ouart attempted to shut it off.
18 To Plaintiff's knowledge, her manager did not do anything to address the employee's
19 inappropriate behavior and, instead, joked about it, along with several of the other male
20 employees in the room. Besides Plaintiff, there was only one other woman in a room of
21 approximately eight men. Plaintiff felt uncomfortable during and after the incident and Plaintiff
22 believes that it bothered the other woman in the room, [REDACTED], too.

23 On a business trip in approximately 2007, George Cross, another Solutions Specialists
24 placed his hand on Plaintiff's leg in a sexually suggestive manner without Plaintiff's consent,
25 which caused Plaintiff to feel uncomfortable working with him.

26 Several times a year, Plaintiff receives comments from male co-workers on the

1 attractiveness of her clothing or her physical attributes. For example, male employees have
2 made comments to the effect of, "I really like your shirt," while staring at Plaintiff's chest area.
3 Plaintiff does not hear such comments made about male colleagues. Plaintiff has learned of
4 similar reports of this type of behavior directed at her female colleagues.

5 Criticism of Women's Competence/Intelligence

6 Plaintiff's manager has made multiple demeaning comments about various women in
7 Plaintiff's organization. For instance, on various occasions in [REDACTED], David Walker called
8 his [REDACTED], [REDACTED], an "easy bake oven" in front of Plaintiff and several
9 other members of her team in an attempt to undermine her as a professional [REDACTED]. His
10 comments were made in reference to [REDACTED] cheerful demeanor and the fact that she
11 sometimes brought baked goods and other sweets to meetings to share with the group. In
12 Plaintiff's view, his comment was intended to suggest that baking was all [REDACTED] was
13 good for. In addition to making demeaning comments about [REDACTED], Plaintiff understands
14 that Mr. Walker was frequently uncooperative and, at times, [REDACTED] o [REDACTED] when
15 [REDACTED] was [REDACTED] in approximately [REDACTED].

16 Mr. Walker has also made demeaning and belittling comments about two different female
17 [REDACTED]. Specifically, he
18 has called these women "dumb" or "an idiot," despite the fact that they are competent
19 professionals with many years of experience.

20 Mr. Walker has also spoken in a demeaning manner about the capacity and intelligence
21 of [REDACTED]. Mr. Walker has insinuated that [REDACTED] is "crazy,"
22 and does not know how to do her job in front of Plaintiff and other members of her team.

23 By contrast, Plaintiff has not heard any managers try to undermine any male employees
24 by disparaging their intellectual capabilities or competence in this same way.

25 In approximately 2014, John Hearne, an Account Executive that Plaintiff supports, spoke
26 to Plaintiff in a rude and demeaning way, raised his voice at Plaintiff, and was unfairly

1 dismissive of Plaintiff's ideas. One of Plaintiff's co-workers, [REDACTED], reported the
2 inappropriate conduct to Plaintiff's manager. Although various managers at Microsoft are aware
3 that Mr. Hearne has a track record of difficulty working with women, to Plaintiff's knowledge,
4 the company has not adequately addressed the issue.

5 In fact, Plaintiff believes that Mr. Walker subsequently sought out Mr. Hearne to provide
6 feedback about Plaintiff's performance for her 2015 end-of-year review, hoping to gain negative
7 feedback to support his efforts to assign Plaintiff lower rewards than her performance merited.

8 On several occasions, David Walker has chastised plaintiff for getting overly "emotional"
9 when she has tried to address her concerns about his unfair treatment of her, in a manner that
10 Plaintiff believes is demeaning and gender-based.

11 Attitudes Toward Female Participation in Discussions and Meetings

12 Plaintiff has observed that women's voices at Microsoft are frequently drowned out by
13 the voices of men. Plaintiff is frequently the only woman in attendance at meetings. When
14 Plaintiff and other women speak up to actively participate in substantive discussions regarding
15 Microsoft products or team strategy, they are often talked over or dismissed. Plaintiff has heard
16 complaints about this problem frequently from other women in her organization. In addition to
17 being interrupted or ignored, Plaintiff has been asked to move seats to a different, less central
18 chair when arriving for meetings. Specifically, in approximately early 2015, David Marvin, an
19 Enterprise Architect, asked Plaintiff to move seats during a meeting with a customer.

20 Additionally, Plaintiff has observed male colleagues exclude female colleagues from
21 important discussions, either by not inviting them to meetings or by setting the meetings when
22 they know the women have family responsibilities and/or on very short notice, even when the
23 women could have attended with more notice and/or would have attended if the meeting had
24 been set at another time. Even when such meetings are scheduled at inconvenient times, Plaintiff
25 makes every effort to attend. For example, Plaintiff has heard [REDACTED],
26 complain that she has been excluded from important discussions about strategic direction for the

1 division. In the fall of 2015, Plaintiff was excluded from a conference call in which she wanted
2 to participate related to Office 365 for Navy, the team to which she is aligned. Even though
3 Plaintiff was with Marc Langlois, the Navy Director, during the time of the call, he took the
4 conference call on his cell phone without giving Plaintiff an opportunity to participate.

5 Hiring and Job Assignments

6 Plaintiff has observed that men and women with similar credentials are not offered the
7 same opportunities upon entry into Microsoft or during their careers. When Plaintiff was hired at
8 Microsoft, she was offered a position as a Level 62, despite having a degree in Information
9 Systems and seven years of relevant work experience for Oracle (as a Senior Solutions
10 Architect), Aether Systems (as a technical trainer instructing programmers on writing code for
11 wireless applications), and a government contractor (as a Software Engineer). When Plaintiff
12 attempted to negotiate a higher salary, the recruiter informed Plaintiff that the recruiter's
13 manager had responded to Plaintiff's request by saying that Plaintiff should be satisfied with the
14 offer because she was "making enough" for someone her age. By contrast, male employees have
15 been hired into Plaintiff's team at higher levels without having commensurate higher levels of
16 experience.

17 Plaintiff has observed that the execution of large-scale, high visibility projects is
18 frequently required before employees can be promoted to higher levels. Managers have
19 influence over which employees have the opportunity to lead these kinds of projects and
20 frequently give these opportunities to men who are then promoted over women with similar or
21 better experience and performance records.

22 For example, after strong performance for several years at Level 64, Plaintiff actively
23 sought promotion to Level 65. She was told by her then-Director, Nina Somerville, that she was
24 a likely candidate for a promotion in 2015. In November 2014, Plaintiff told her new manager,
25 Mr. Walker, that she believed she deserved a promotion. Mr. Walker told Plaintiff that he did
26 not think she was ready for the promotion and that she needed to execute a high visibility project

1 first. Plaintiff suggested that she could direct the “Consumption” deployment project for Office
2 365. At her check-in meeting in December 2014, Plaintiff delivered a presentation related to the
3 project and asked for feedback from Mr. Walker. He said that he needed to check with his
4 supervisor, Nina Somerville, before giving Plaintiff approval to proceed. In January 2015,
5 Plaintiff checked in with Mr. Walker about whether she had permission to move forward with
6 the presentation she had built (and the Consumption project more broadly), but Mr. Walker put
7 her off and did not give her the approval she needed to move forward. Plaintiff did not hear
8 anything about the project again until Mr. Walker sent an email to the team in approximately
9 March 2015 announcing that [REDACTED], would be the [REDACTED]
10 [REDACTED]. Around the same time, Plaintiff learned that Mr. Walker had given the project to [REDACTED]
11 [REDACTED] and that [REDACTED] had begun working on the project while Plaintiff was waiting to get
12 approval to proceed. [REDACTED] and Plaintiff were both [REDACTED] at the time. After leading the
13 [REDACTED], [REDACTED] was promoted to level 65 in [REDACTED] and Plaintiff was not
14 promoted.

15 Impact of Maternity Leave and Childcare on Performance Reviews and Assignments

16 Plaintiff has observed the negative impact of taking maternity leave on performance
17 reviews, work assignments, and promotions.

18 For example, after returning from maternity leave in 2010, Plaintiff was not promoted
19 from Level 63 to Level 64 despite her strong performance record over two years at Level 63.

20 [REDACTED] [REDACTED] who was not a top performer received a [REDACTED]
21 [REDACTED] promotion to Level 65 instead.

22 Katherine Moussouris’s EEOC Charge

23 Plaintiff has read Katherine Moussouris’s EEOC charge dated May 13, 2014. Katherine
24 Moussouris’s experience represents an example of gender discrimination within Microsoft in
25 terms of performance evaluation, compensation, and promotions. As a manager, Ms.

26 Moussouris observed that “female technical employees tended to receive lower scores than their

1 male peers, despite having equal or better work performance,” and that “[f]emale technical
2 employees disproportionately received 4s and 5s as compared to male technical employees.”
3 While Plaintiff has not been involved in reviewing employee performance, she understands that
4 performance review scores affect one’s likelihood of promotion. Plaintiff has observed her male
5 colleagues rise through the ranks faster within Microsoft, corroborating Ms. Moussouris’s
6 allegations, regarding performance evaluation, compensation, and promotions.

7 Confidential Information

8 Finally, certain material relevant to Plaintiffs’ claims in this case has been produced to
9 Plaintiff’s attorneys as highly confidential information. Accordingly, Plaintiff does not have
10 access to that information, but believes that additional facts may exist therein that are responsive
11 to this interrogatory.

12 **INTERROGATORY NO. 2:**

13 If YOU contend that Microsoft operated under a general policy of discrimination that
14 manifested itself in promotion practices impacting the purported class, state all material facts
15 supporting that contention.

16 **RESPONSE TO INTERROGATORY NO. 2:**

17 Plaintiff incorporates the general objections stated above and reserves her right to
18 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
19 responds as follows:

20 Plaintiff incorporates her response to Interrogatory number 1.

21 Plaintiff observed that her gender affected her promotion opportunities and the promotion
22 opportunities of other women during her tenure at Microsoft.

23 During her career at Microsoft, Plaintiff has observed men advance through the company
24 faster than women who perform similarly or better. Below are some examples:

- 25
 - Plaintiff believes that the following men have been promoted to Level 65 while

26 Plaintiff has not, despite her similar education and experience and similar or

1 better performance record: [REDACTED]

2 [REDACTED].

- 3 • In approximately late [REDACTED], [REDACTED] was hired into [REDACTED]
- 4 team as a [REDACTED] – a level above Plaintiff - despite the fact that [REDACTED] did
- 5 have not significantly more relevant experience or skills than Plaintiff and had
- 6 been with the company for [REDACTED] than Plaintiff. Plaintiff was involved in
- 7 interviewing [REDACTED] for the position, and did not learn that he would be a
- 8 higher level than she was until after he was hired. [REDACTED] has since been
- 9 promoted into a management position and is now the peer of [REDACTED],
- 10 [REDACTED].
- 11 • Plaintiff also has observed that [REDACTED] rose through the ranks much faster
- 12 than she did despite having a shorter tenure with the company and fewer years of
- 13 relevant experience. He started working for Microsoft in approximately [REDACTED]—
- 14 [REDACTED] [REDACTED]— in another role within the company. Plaintiff
- 15 believes that he became a Solutions Specialist in approximately [REDACTED] and was
- 16 promoted to Level 64 in approximately [REDACTED] after only about [REDACTED] of work as a
- 17 [REDACTED]. By contrast, it took Plaintiff five years as a Solutions
- 18 Specialist to achieve this promotion. Likewise, believes that [REDACTED] was
- 19 promoted to Level 65 in [REDACTED], despite having only [REDACTED] of experience as a
- 20 [REDACTED] and [REDACTED] of tenure with the company. Plaintiff has still
- 21 not attained a promotion to Level 65 after nearly ten years of strong performance
- 22 as a Solutions Specialist.
- 23 • Plaintiff also has observed that [REDACTED] rose through the ranks much
- 24 faster than she did despite having a shorter tenure with the company and fewer
- 25 years of relevant experience. Mr. [REDACTED]h started working for Microsoft in
- 26 approximately [REDACTED] as a [REDACTED] – approximately [REDACTED]

1 years after Plaintiff started working for the company. In approximately [REDACTED]
2 [REDACTED] became a [REDACTED]. In [REDACTED]
3 [REDACTED] was promoted to Level 65, despite having only [REDACTED] of
4 experience as a [REDACTED] and only [REDACTED] of tenure with the
5 company.

- 6 • As explained above in response to Interrogatory No. 1, [REDACTED] received a
7 promotion to Level 65 in [REDACTED] instead of Plaintiff after [REDACTED] was given the
8 opportunity to serve as [REDACTED].
- 9 • Over the years, other women have also failed to receive promotions despite strong
10 performance. In turn, many of these women have left the company or changed
11 roles. These individuals include: [REDACTED].

12 **INTERROGATORY NO. 3:**

13 If YOU contend that Microsoft operated under a general policy of discrimination that
14 manifested itself in performance evaluation practices impacting the purported class, state all
15 material facts supporting that contention.

16 **RESPONSE TO INTERROGATORY NO. 3:**

17 Plaintiff incorporates the general objections stated above and reserves her right to
18 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
19 responds as follows:

20 Plaintiff incorporates her response to Interrogatory number 1-2.

21 Plaintiff observed that her gender affected her performance evaluation during her tenure
22 at Microsoft. In fiscal years 2008, 2009, and 2010, Plaintiff's performance reviews indicated
23 that she was performing at or near the "20% level" for contribution ranking – the top band at that
24 time – yet she was ultimately ranked at the 70% level, not the 20% level, in all three years.
25 Additionally, in 2014 and 2015, despite consistently strong performance relative to her peers,
26 Plaintiff received less favorable performance reviews and lower rewards as a percentage of her

1 salary, including her merit increases and bonus awards, than in the previous three fiscal years.

2 **INTERROGATORY NO. 4:**

3 If YOU contend that Microsoft operated under a general policy of discrimination that
4 manifested itself in compensation practices impacting the purported class, state all material facts
5 supporting that contention.

6 **RESPONSE TO INTERROGATORY NO. 4:**

7 Plaintiff incorporates the general objections stated above and reserves her right to
8 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
9 responds as follows:

10 Plaintiff incorporates her response to Interrogatory number 1-3.

11 Plaintiff observed that her gender has affected her compensation during her tenure at
12 Microsoft.

13 Plaintiff has observed men rise through the ranks faster at Microsoft, and Plaintiff
14 understands that with promotions, come salary increases. Therefore, male colleagues performing
15 work of similar quality receive greater compensation. Additionally, Plaintiff is aware that even
16 without a promotion, a higher review score results in greater salary rewards (e.g., bonuses or
17 raises), and that women are treated differently in reviews. Plaintiff herself has observed and also
18 has heard from others that women are often penalized for having family responsibilities while
19 men are not, and women are criticized for personality traits considered to be strengths in men,
20 are not credited for their contributions, and receive mediocre review scores upon returning from
21 maternity leave. This practice reduces female compensation vis-à-vis male compensation.

22 **INTERROGATORY NO. 5:**

23 If YOU contend that Microsoft operated under a general policy of discrimination that had
24 the effect of denying the purported class members business opportunities, state all material facts
25 supporting that contention.

1 **RESPONSE TO INTERROGATORY NO. 5:**

2 Plaintiff incorporates the general objections stated above and reserves her right to
3 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
4 responds as follows:

5 Plaintiff incorporates her response to Interrogatory number 1-4.

6 Managers tend to assign men the more prestigious and valued tasks and give them
7 opportunities to take on projects that will set them up for promotions. For example, as described
8 in Plaintiff's response to Interrogatory No. 1, [REDACTED], was given the
9 opportunity to [REDACTED] instead of Plaintiff and he was then promoted over
10 her.

11 **INTERROGATORY NO. 6:**

12 If YOU contend that Microsoft operated under a general policy of discrimination that had
13 the effect of providing purported class members with inferior terms and conditions of
14 employment, state all material facts supporting that contention.

15 **RESPONSE TO INTERROGATORY NO. 6:**

16 Plaintiff incorporates the general objections stated above and reserves her right to
17 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
18 responds as follows:

19 Plaintiff incorporates her response to Interrogatory number 1-5.

20 **INTERROGATORY NO. 7:**

21 If YOU contend that each nonresident putative class member had sufficient contact with
22 the state of Washington to apply the Washington Law Against Discrimination (RCW § 24
23 49.60.010 et seq.) ("WLAD") to their claims, state all material facts supporting that contention.

24 **RESPONSE TO INTERROGATORY NO. 7:**

25 Plaintiff incorporates the general objections stated above and reserves her right to
26 supplement her response before trial. Plaintiff also objects on the ground that this Interrogatory

1 calls for a legal conclusion. Subject to and without waiving these objections, Plaintiff responds
2 as follows:

3 Plaintiff believes that the performance, compensation, and promotion policies at issue
4 were developed and implemented by company leadership and/or human resources in Washington
5 State, and all members of the putative class would be subject to these same policies. Plaintiff
6 believes company training materials are generated by employees in Washington State. Plaintiff
7 understands that the employee agreement she received in 2006 states that Washington Law
8 applies to her employment, and Plaintiff believes that similar statements are made in the
9 employee agreements of others who work both inside and outside of Washington.

10 **INTERROGATORY NO. 8:**

11 If YOU contend that the WLAD does not conflict in any material way with ANY other
12 state anti-discrimination laws applicable to the putative class, state all material facts supporting
13 that contention.

14 **RESPONSE TO INTERROGATORY NO. 8:**

15 Plaintiff incorporates the general objections stated above and reserves her right to
16 supplement her response before trial. Plaintiff also objects on the ground that this Interrogatory
17 calls for a legal conclusion.

18 **INTERROGATORY NO. 9:**

19 State all material facts supporting YOUR contention that Microsoft implemented its
20 performance evaluation policies “despite knowing that they have a longstanding disparate impact
21 on female employees.”

22 **RESPONSE TO INTERROGATORY NO. 9:**

23 Plaintiff incorporates the general objections stated above and reserves her right to
24 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
25 responds as follows:

26 Plaintiff incorporates her response to Interrogatory number 1-8.

1 Plaintiff has raised complaints about gender discrimination on multiple occasions to
2 Microsoft. In April 2015, Plaintiff brought to the attention of Dick Hoell from Microsoft Human
3 Resources the fact that she believed she was being treated unfairly by her manager, David
4 Walker. After she did not receive an adequate response from Human Resources, in May 2015,
5 Plaintiff again complained to Human Resources that she believed that Microsoft had
6 discriminated against her because of her gender. Plaintiff provided evidence of Microsoft's
7 discriminatory treatment to Microsoft's investigators. Plaintiff also informed Microsoft's
8 investigations team that she believed that her 2015 end-of-year performance evaluation was
9 unfairly negative in a manner that was discriminatory and/or in retaliation for her complaint of
10 discrimination. In March 2016, Plaintiff also reported to Human Resources that Mr. Walker had
11 unfairly evaluated her performance in her most recent Connect.

12 Plaintiff is aware that other women have also brought instances of unfair treatment
13 relating to performance evaluation, compensation, promotions, and sexual harassment to the
14 attention of Microsoft management and/or Human Resources. Plaintiff is not aware of Microsoft
15 taking steps to address these complaints.

16 **INTERROGATORY NO. 10:**

17 State all material facts supporting YOUR contention that Microsoft implemented its pay
18 policies "despite knowing that they have a longstanding disparate impact on female employees."

19 **RESPONSE TO INTERROGATORY NO. 10:**

20 Plaintiff incorporates the general objections stated above and reserves her right to
21 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
22 responds as follows:

23 Plaintiff incorporates her response to Interrogatory number 1-9.

24 Plaintiff has observed how women's pay is affected by the performance evaluations and
25 promotions. Plaintiff has discussed these issues with managers (and is aware of female co-
26 workers who have done the same). Plaintiff has complained about gender bias at Microsoft to

1 Microsoft Human Resources, and she knows that others have made such complaints as well.

2 Plaintiff believes that, as a federal contractor, Microsoft is obligated to keep track of data
3 on the compensation of men versus women in similar roles, and that the company must therefore
4 be aware of a pay disparity.

5 **INTERROGATORY NO. 11:**

6 State all material facts supporting YOUR contention that Microsoft implemented its
7 promotion policies “despite knowing that they have a longstanding disparate impact on female
8 employees.”

9 **RESPONSE TO INTERROGATORY NO. 11:**

10 Plaintiff incorporates the general objections stated above and reserves her right to
11 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
12 responds as follows:

13 Plaintiff incorporates her response to Interrogatory number 1-10.

14 Plaintiff made numerous complaints to her managers about not being promoted. Most
15 recently, in [REDACTED], a male colleague with the same scope of responsibility was
16 promoted when she did not. Over the years, Plaintiff has heard many women describe
17 complaining to managers when they observed male peers being promoted above them.

18 Plaintiff has observed a dearth of female employees at more senior levels within her
19 organization and other parts of the company. Plaintiff believes that, as a federal contractor,
20 Microsoft is obligated to keep track of data on the relative representation of men and women in
21 management, and that the company must therefore be aware of the problem.

22 Plaintiff has complained about gender bias at Microsoft to Microsoft Human Resources,
23 and she knows that others have made such complaints as well.

24 **INTERROGATORY NO. 12:**

25 If YOU contend that Microsoft implemented ANY policy that caused an adverse impact
26 on women, specifically identify each such policy.

1 **RESPONSE TO INTERROGATORY NO. 12:**

2 Plaintiff incorporates the general objections stated above and reserves her right to
3 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
4 responds as follows:

5 Plaintiff incorporates her response to Interrogatory number 1-11. Plaintiff contends that
6 the performance review, compensation, and promotion policies at issue have an adverse impact
7 on women.

8 **INTERROGATORY NO. 13:**

9 If you identified a policy or policies in response to Interrogatory No. 12 above, state all
10 material facts supporting your contention that the policy or policies caused the alleged adverse
11 impact.

12 **RESPONSE TO INTERROGATORY NO. 13:**

13 Plaintiff incorporates the general objections stated above and reserves her right to
14 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
15 responds as follows:

16 Plaintiff incorporates her response to Interrogatory number 1-12. Plaintiff has observed
17 for herself and has heard men and women say that women are paid and promoted less and
18 calibrated differently than men.

19 **INTERROGATORY NO. 14:**

20 If YOU identified a policy or policies in response to Interrogatory No. 12 above, and
21 YOU contend that Microsoft implemented the policy or policies because of their alleged adverse
22 impact on women, state all material facts supporting that contention.

23 **RESPONSE TO INTERROGATORY NO. 14:**

24 Plaintiff incorporates the general objections stated above and reserves her right to
25 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
26 responds as follows:

1 Plaintiff does not allege that “Microsoft implemented the policy or policies because of
2 their alleged adverse impact on women” in the Second Amended Complaint. Plaintiff alleges
3 that Microsoft implemented discriminatory policies and practices regarding performance
4 reviews, compensation, and promotions; that those policies had an adverse impact on women;
5 that Microsoft maintained those policies and practices with knowledge of their adverse impact;
6 that those policies and practices are not and cannot be justified by business necessity; and that
7 even if those policies and practices could be justified by business necessity, less discriminatory
8 alternatives exist and would equally serve any alleged necessity. Plaintiff incorporates her
9 response to Interrogatory number 1-13.

10 **INTERROGATORY NO. 15:**

11 If YOU contend that Microsoft implemented ANY practice that caused an adverse impact
12 on women, specifically identify each such practice.

13 **RESPONSE TO INTERROGATORY NO. 15:**

14 Plaintiff incorporates the general objections stated above and reserves her right to
15 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
16 responds as follows:

17 Plaintiff incorporates her response to Interrogatory number 1-14.

18 **INTERROGATORY NO. 16:**

19 If YOU identified a practice or practices in response to Interrogatory No. 15 above, state
20 all material facts supporting your contention that the practice or practices caused the alleged
21 adverse impact.

22 **RESPONSE TO INTERROGATORY NO. 16:**

23 Plaintiff incorporates the general objections stated above and reserves her right to
24 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
25 responds as follows:

26 Plaintiff incorporates her response to Interrogatory number 1-15.

1 **INTERROGATORY NO. 17:**

2 If YOU identified a practice or practices in response to Interrogatory No. 15 above, and
3 YOU contend that Microsoft implemented the practice or practices because of their adverse
4 impact on women, state all material facts supporting that contention.

5 **RESPONSE TO INTERROGATORY NO. 17:**

6 Plaintiff incorporates the general objections stated above and reserves her right to
7 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
8 responds as follows:

9 Plaintiff does not allege that "Microsoft implemented the practice or practices because of
10 their adverse impact on women" in the Second Amended Complaint. Plaintiff alleges that
11 Microsoft implemented discriminatory policies and practices regarding performance reviews,
12 compensation, and promotions; that those policies had an adverse impact on women; that
13 Microsoft maintained those policies and practices with knowledge of their adverse impact; that
14 those policies and practices are not and cannot be justified by business necessity; and that even if
15 those policies and practices could be justified by business necessity, less discriminatory
16 alternatives exist and would equally serve any alleged necessity. Plaintiff incorporates her
17 response to Interrogatory number 1-16.

18 **INTERROGATORY NO. 18:**

19 If YOU contend that your WLAD disparate impact claim is not based on discretionary
20 performance decisions, state all material facts that support that contention.

21 **RESPONSE TO INTERROGATORY NO. 18:**

22 Plaintiff incorporates the general objections stated above and reserves her right to
23 supplement her response before trial. Additionally, Plaintiff objects on the ground that this
24 Interrogatory calls for a legal conclusion.

25 **INTERROGATORY NO. 19:**

26 Identify all individuals by name and by job title who YOU consider to be YOUR

1 comparators for the disparate treatment and disparate impact claims you allege against Microsoft.

2 **RESPONSE TO INTERROGATORY NO. 19:**

3 Plaintiff incorporates the general objections stated above and reserves her right to
4 supplement her response before trial. Plaintiff also objects that the term comparator is vague and
5 ambiguous. To the extent that Plaintiff can guess at the meaning and subject to and without
6 waiving these objections, Plaintiff responds as follows:

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 **INTERROGATORY NO. 20:**

12 If YOU identified individuals in response to Interrogatory No. 19 above, state all material
13 facts to support YOUR contention that these individuals are YOUR comparators.

14 **RESPONSE TO INTERROGATORY NO. 20:**

15 Plaintiff incorporates the general objections stated above and reserves her right to
16 supplement her response before trial. Subject to and without waiving these objections, Plaintiff
17 responds as follows:

18 [REDACTED]

19 [REDACTED] graduated from college at [REDACTED] as Plaintiff and has a
20 [REDACTED] number of years of work experience; although Plaintiff has [REDACTED] years of experience as a
21 [REDACTED]. They have worked on the [REDACTED] performing a [REDACTED] of work.
22 Until [REDACTED] when [REDACTED] was promoted to Level 65, both Plaintiff and [REDACTED] were at Level
23 64.

24 [REDACTED]

25 [REDACTED] graduated from college around [REDACTED] as Plaintiff and
26 has a [REDACTED] number of years of work experience; although Plaintiff has [REDACTED] years of

1 experience as a [REDACTED]. [REDACTED] [REDACTED] into Plaintiff's team as a [REDACTED]
2 [REDACTED] in approximately [REDACTED] as a Level [REDACTED], despite performing a similar
3 scope of work.

4 [REDACTED]
5 Until recently, when [REDACTED] became a [REDACTED], Plaintiff and [REDACTED]
6 [REDACTED] were both [REDACTED] performing a [REDACTED] scope of work.
7 Plaintiff graduated from college [REDACTED] and has several [REDACTED] years of
8 relevant work experience.

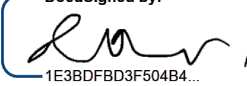
9 [REDACTED]
10 Plaintiff and [REDACTED] have a [REDACTED] number of years of relevant work experience
11 and performed a similar scope of work as [REDACTED]; although
12 Plaintiff has [REDACTED] experience as a [REDACTED].

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

VERIFICATION

I, Dana Piermarini, verify subject to the penalty of perjury that the foregoing answers to interrogatories are true and correct to the best of my knowledge and belief.

Dated: 6/2/2016

DocuSigned by:

1E3BDFBD3F504B4...
By: _____
Dana Piermarini

1 Dated: June 2, 2016

By: /s/ Ossai Miazad
Ossai Miazad

2
3 Kelly M. Dermody (*pro hac vice*)
4 Anne B. Shaver (*pro hac vice*)
5 Michael Levin-Gesundheit (*pro hac vice*)
6 Yaman Salahi (*pro hac vice*)
7 **LIEFF CABRASER HEIMANN & BERNSTEIN, LLP**
8 275 Battery Street, 29th Floor
9 San Francisco, California 94111-3339
10 Telephone: (415) 956-1000
11 Facsimile: (415) 956-1008
12 E-Mail: kdermody@lchb.com
13 E-Mail: ashaver@lchb.com
14 E-Mail: mlevin@lchb.com
15 E-Mail: ysalahi@lchb.com

16 Sharon M. Lee (Wash. Bar No. 37170)
17 **LIEFF CABRASER HEIMANN & BERNSTEIN, LLP**
18 2101 Fourth Avenue, Suite 1900
19 Seattle, Washington 98121
20 Telephone: (206) 739-9059
21 Facsimile: (415) 956-1008
22 E-Mail: slee@lchb.com

23 Rachel J. Geman (*pro hac vice*)
24 **LIEFF CABRASER HIEMANN & BERNSTEIN, LLP**
25 250 Hudson Street, 8th Floor
26 New York, New York 10013-1413
Telephone: (212) 355-9500
Facsimile: (212) 355-9592
E-Mail: rgeman@lchb.com

Adam T. Klein (*pro hac vice*)
Cara E. Greene (*pro hac vice*)
Ossai Miazad (*pro hac vice*)
Elizabeth V. Stork (*pro hac vice*)
OUTTEN & GOLDEN LLP
3 Park Avenue, 29th Floor
New York, New York 10016
Telephone: (212) 245-1000
Facsimile: (646) 509-2060
E-Mail: ATK@outtengolden.com
E-Mail: CEG@outtengolden.com
E-Mail: OM@outtengolden.com
E-Mail: estork@outtengolden.com

1 Jahan C. Sagafi (*pro hac vice*)
2 Katrina L. Eiland (*pro hac vice*)
3 **OUTTEN & GOLDEN LLP**
4 One Embarcadero Center, 38th Floor
5 San Francisco, California 94111
6 Telephone: (415) 638-8800
7 Facsimile: (415) 638-8810
8 E-Mail: jsagafi@outtengolden.com
9 E-Mail: keiland@outtengolden.com

10 Michael Subit (Wash. Bar No. 29189)
11 **FRANK FREED SUBIT & THOMAS LLP**
12 705 Second Avenue, Suite 1200
13 Seattle, Washington 98104
14 Telephone: (206) 682-6711
15 Facsimile: (206) 682-0401
16 E-Mail: msubit@frankfreed.com

17 *Attorneys for Plaintiffs and the proposed Class*
18
19
20
21
22
23
24
25
26